

BEFORE THE
Federal Communications Commission
WASHINGTON, D.C. 20554

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DEC 14 1998

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of

Communications Assistance
for Law Enforcement Act

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CC Docket No. 97-213

COMMENTS OF SOUTHERN COMMUNICATIONS SERVICES, INC.

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Southern Communications Services, Inc. files this petition in response to the Further Notice of Proposed Rulemaking (FNPRM) released by the Federal Communications Commission on November 5, 1998 regarding technical standards under the Communications Assistance for Law Enforcement Act (CALEA).¹ The FNPRM solicits comments on several petitions that allege deficiencies in J-STD-025, the interim CALEA technical standard developed for certain carriers under the auspices of the Telecommunications Industry Association (TIA). Although this standard applies only to wireline, cellular and Personal Communications Services (PCS), the Commission has solicited comments as to whether it should serve as a guide for other carriers, such as Specialized Mobile Radio (SMR) service providers. In addition, the FCC seeks comment on the role it should play, if any, in developing CALEA-compliant technical standards for SMR and other carriers not covered by J-STD-025. Southern Communications Services, Inc.

¹ *In the Matter of Communications Assistance for Law Enforcement Act*, CC Docket No. 97-213, adopted October 22, 1998 (hereinafter "CALEA FNPRM").

limits its response in these comments to the specific questions raised by the FCC regarding CALEA-compliant technical standards for the SMR industry.

I. INTRODUCTION

1. Southern Communications Services, Inc. (Southern) is a Commercial Mobile Radio Service (CMRS) provider operating a wide-area 800 MHz SMR system throughout its regional service area. This state-of-the-art digital SMR system provides enhanced dispatch communications, phone service, numeric and text paging, and mobile data using Motorola's unique iDEN digital technology. The same handset can be used for digital dispatch communications and interconnected phone service, with subscribers alternating between the two types of service with the press of a button. Developed initially to support the service crews of Southern's affiliated utility operating companies, Southern's system now supports tens of thousands of external customers, the bulk of which are commercial or industrial users, state and local government agencies, and public safety organizations. The Southern 800 MHz SMR system provides service for these customers in rural and urban areas corresponding with its utility system operations throughout Alabama, Georgia, southeastern Mississippi, and the Florida Panhandle.

II. COMMENTS

A. The SMR Industry Should Establish CALEA Safe Harbor Standards for SMR Carriers

2. Instead of undertaking the substantial effort necessary to devise CALEA technical standards for each segment of the telecommunications industry not covered by J-STD-025, such as SMR services, the FCC should support industry association efforts to develop such standards. Southern and the limited number of other SMR providers using Motorola's iDEN technology have been working with Motorola to develop CALEA-compliant standards for digital SMR

carriers. Southern's efforts include working with the American Mobile Telecommunications Association (AMTA) to establish an industry group to develop CALEA-compliant standards for digital SMR communications, just as AMTA is in the process of doing for analog SMR communications. Such efforts will involve the principal carriers and vendors in that sector of the industry, and can include input from both the FBI and FCC. The FCC should defer to and encourage these ongoing efforts of SMR industry experts to develop standards appropriate for this unique communications technology.

3. The language of CALEA itself demonstrates Congress' preference for industry developed standards. As indicated by Section 107(b) of CALEA, carriers will be deemed in compliance with the Act to the extent they are in compliance with publicly available technical standards adopted by an industry association or standards setting organization.² According to that same section of the Act, the FCC may establish technical standards by rule only when industry fails to issue standards or, even if issued, the FCC is petitioned by the Government or anyone else believing the standards to be deficient.³ The FCC exercised its Section 107(b) authority to establish technical standards in the instant proceeding in response to petitions by the FBI and Center for Democracy and Technology alleging deficiencies in J-STD-025. In regard to CALEA standards for SMR carriers, the prerequisites for the FCC to exercise this authority are not present. Although industry has yet to establish technical standards for iDEN technology, as discussed above, efforts to develop such standards are already underway. Furthermore, neither the Government nor any other entity has petitioned the FCC to establish standards for SMR by

² 47 U.S.C.A. § 1006(a)(2). According to the FCC, "the Act envisions that an association or a standards-setting organization would set applicable standards." CALEA FNPRM at paragraph 7.

³ 47 U.S.C.A. § 1006(b).

rulemaking. Absent such petitions, and in light of current industry efforts, the FCC should play a more limited role in devising technical standards for SMR carriers.

B. The FCC's Decisions Regarding the Parameters of J-STD-025 Should Not Automatically Bind SMR Carriers

4. J-STD-025 was designed specifically for wireline, cellular and PCS carriers, and therefore should not necessarily dictate the technical standards required under CALEA for the SMR industry. This standard is the product of extensive coordination amongst wireline, cellular and PCS carriers, their vendors, and law enforcement. There is no mention of SMR technology in J-STD-025, the FBI's proposed technical standards, the FBI implementation report to Congress, or even the FBI final notice of capacity, which address only cellular and PCS. The FBI has not identified a "punch list" for dispatch systems using Motorola's iDEN technology, although Southern understands that discussions about these issues have taken place. Dispatch-oriented SMR systems, such as Southern's, should not be bound by technical standards developed without any consideration of the unique communications technology and network architecture associated with digital dispatch communications.

5. Based on the language of CALEA, SMR carriers do not necessarily have to comply with the same capability requirements as other carriers. For example, Section 103 of CALEA requires carriers to provide law enforcement with "reasonably available" call-identifying information.⁴ In the instant proceeding, the FCC has tentatively concluded that information about whether a party to a conference call is placed on hold, is dropped, or is added to the call by the subject of an investigation is "call-identifying information" within the scope of

⁴ 47 U.S.C.A. § 1002(a)(2).

CALEA.⁵ These features, which may be typical to conference calls on an interconnected voice system, are not available to users when making a dispatch “group talk” call on Southern’s iDEN system.⁶ Although this type of information may ultimately be determined to be reasonably available to wireline, cellular and PCS carriers, it would be inappropriate to assume that these requirements can be likewise applied to dispatch communications systems. Therefore these and other functionalities identified in J-STD-025 and the FBI’s punch list may not be reasonably available to dispatch-oriented SMR carriers.

6. The FCC has tentatively concluded that subject-initiated dialing and signaling information, such as call forwarding, call waiting, and call hold constitute call-identifying information required under CALEA.⁷ Unlike interconnected phone service, dispatch communications do not support call forwarding, call waiting or call hold features. Likewise, the FCC has proposed that post-cut through dialing, which consists of those digits dialed after call set up and necessary to route a call to its final destination, must be provided to law enforcement under the Act.⁸ This type of call-identifying information has no counterpart in a dispatch communications system. In light of the vastly different technologies employed by SMR carriers and those carriers covered by J-STD-025, the FCC should avoid a reflexive application of J-STD-025 to the SMR industry.

⁵ CALEA FNPRM at paragraph 85.

⁶ “Group talk” allows members of the same fleet located within a certain geographic area to communicate as a group. A group can include as many as 255 to 64,000 mobile units. When a given member of the group initiates a call, the system does not generate information indicating how many and which mobile units have responded.

⁷ CALEA FNPRM at paragraph 91.

⁸ *Id.* at paragraph 128.

7. Other technical parameters considered by the FCC may have some application in the SMR dispatch environment, but should not necessarily be incorporated into standards for SMR carriers. For example, the FCC has sought general comments on the extent to which CALEA's requirements apply to packet-switched communications.⁹ Southern is seeking information from its vendors as to whether it is technically possible to separate addressing information from call content and therefore Southern cannot evaluate whether such call-identifying information is reasonably available in the digital dispatch context. The FCC has also requested comment on which types of in-band and out-of-band signaling qualifies as call-identifying information under CALEA.¹⁰ Some examples include network messages indicating ringing, busy signal, call waiting signal, and message light.¹¹ The signaling information generated by Southern's dispatch system, such as tones indicating whether a handset is activated or not, is not necessarily analogous to the signaling information sought by the FBI in the interconnected voice context. To the extent it is uncertain whether and to what extent these capabilities may apply to wireline, cellular and PCS carriers, Southern asks the FCC to withhold application of these requirements to SMR carriers. Southern further agrees with the FCC that surveillance status information, which provides the FBI with confirmation that its equipment is functioning properly,¹² should not be incorporated into J-STD-025 or required of any carrier under CALEA.

⁹ *Id.* at paragraph 65.

¹⁰ *Id.* at paragraph 99.

¹¹ *Id.* at paragraph 95.

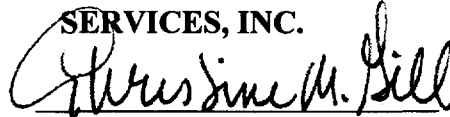
¹² *Id.* at paragraph 109, 114, 121.

III. CONCLUSION

8. Southern supports the Commission's implementation of CALEA and will continue to make every effort to cooperate with authorized law enforcement intercepts within the technical parameters of its existing communications network. Southern respectfully asks the Commission, however, not to mandate technical standards for SMR carriers based on wireline, cellular or PCS technology. Further, in recognition of the practical difficulties associated with establishing technical standards through administrative proceeding for those technologies not covered by J-STD-025, Southern respectfully urges the FCC to support efforts by industry associations to develop their own standards for CALEA compliance.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on this 14th day of December 1998, I caused true and correct copies of the COMMENTS OF SOUTHERN COMMUNICATIONS SERVICES, INC. to be served via hand delivery on:

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